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Par Pharmaceutical Companies, Inc. and Par Pharmaceutical, Inc.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**SANOFI-AVENTIS U.S. LLC,
SANOFI-AVENTIS,
DEBIOPHARM, S.A.,**

Plaintiffs,

v.

**MUSTAFA NEVZAT ILAC SANAYII A.S.
(a.k.a. MN PHARMACEUTICALS), PAR
PHARMACEUTICAL COMPANIES, INC.,
PAR PHARMACEUTICAL, INC.,**

Defendants.

)
) **UNDER SEAL**
)
) Civil Action Nos.
) 3:07-cv-03143 (JAP)(JJH)
) 3:08-cv-263 (JAP)(JJH)
)

) **ARGUMENT REQUESTED**
)

) **Document Electronically Filed**
)
)

**DECLARATION OF DUTCH D. CHUNG, PH.D. IN SUPPORT OF PAR'S MOTION
FOR SUMMARY JUDGMENT OF NONINFRINGEMENT OF THE '874 CLAIMS**

I, Dutch D. Chung declare as follows:

1. I am an associate with the law firm of Wilson Sonsini Goodrich & Rosati and one of the attorneys representing Defendants MN Pharmaceuticals, Par Pharmaceutical Companies, Inc., and Par Pharmaceutical, Inc. in the above-captioned matter.

2. I have personal knowledge of the facts herein, and if called upon to testify thereon as a witness, could do so.

3. Attached hereto as PX1 is a true and correct copy of the Memorandum of Law of Fresenius Kabi Oncology and Dabur Pharma Limited in support of their motion for summary judgment of non-infringement of U. S. Patent No. 5,338,874 filed under seal.

4. Attached hereto as PX2 is a true and correct copy of a document bearing Bates numbers PAR00004, PAR00009, PAR000056-PAR000103 (November 30, 2007 ANDA Amendment).

5. Attached hereto as PX3 is a true and correct copy of the Declaration of Friedrich Wissman.

6. Attached hereto as PX4 is a true and correct copy of the excerpts from the deposition of Nese Evren, taken September 11, 2008.

7. Attached hereto as PX5 is a true and correct copy of the excerpts from the deposition of Donna Carluccio, taken December 5, 2008.

8. Attached hereto as PX6 is a true and correct copy of a document bearing bates numbers ELOX0000032-ELOX00000164 (File History of the '874 Patent).

9. Attached hereto as PX7 is a true and correct copy of U.S. Patent 5,338,874 ("the '874 Patent").

10. Attached hereto as PX8 is a true and correct copy of the Declaration of Apryll Stalcup dated, January 8, 2009.

11. Attached hereto as PX9 is a true and correct copy of a document bearing bates numbers TTK00004762-TTK00004843 (December 25, 1993 Tanaka DMF Reports).

12. Attached hereto as PX10 is a true and correct copy of a document bearing bates numbers BVL04103-BVL04114 (April 2, 1993 Tanaka Certificate of Analysis).

13. Attached hereto as PX11 is a true and correct copy of U. S. Patent 4,169,846.

14. Attached hereto as PX12 is a true and correct copy of Defendant Sandoz Inc.'s Memorandum of Law in support of its motion for summary judgment of non-infringement of the '874 patent claims filed under seal.

15. Attached hereto as PX13 is a true and correct copy of Defendants Mayne Pharma Limited, Mayne Pharma (USA) Inc., Hospira Australia Pty Ltd., and Hospira Inc.'s Memorandum of Law in support of their motion for summary judgment of non-infringement filed under seal.

16. Attached hereto as PX14 is a true and correct copy of excerpts from the deposition of Robert Whelen, taken December 8, 2008.

17. Attached hereto as PX15 is a true and correct copy of the dictionary definition of "melting point" from the Academic Press Dictionary of Science and Technology (1992).

18. Attached hereto as PX16 is a true and correct copy of a document bearing bates numbers MN002245-MN002258 (August 11, 2008 Minor Chemistry Amendment).

I declare under penalty of perjury under the laws of the District of Columbia that the foregoing is true and correct. Executed this 8th day of January 2009, in the District of Columbia.

WILSON SONSINI GOODRICH & ROSATI

Attorneys for Defendants MN and Par

By: _____


Dutch D. Chung Ph. D.